

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

Crl.Rev.Pet.No. 1092 of 2000()

C.C.NO.571/1998 OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS,
WADAKKANCHERY

REVN. PETITIONER:

SMT.AMMANNI W/O.VELAYUDAN, KUNDUPARAMBIL HOUSE,
AARAMGOTTUKARA VILLAGE,
THALAPPILLY TALUK,
THRISSUR DISTRICT.

BY ADV. SRI.T.G.LELLULAL

RESPONDENTS:

1. SMT.JANAKI, W/O.BALAN, CHATHANATHU PARAMBIL,
AARAMGOTTUKARA VILLAGE,
THALAPPILLY TALUK, THRISSUR DISTRICT.
2. SRI.MANIKANDAN, S/O.BALAN, DO- DO- DO-
3. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.P.RADHAKRISHNAN (1)
PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 06/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

K.R.UDAYABHANU, J.

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Crl. R.P.No.1092 of 2000-B
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Dated this the 6th day of November, 2007

O R D E R

The revision petitioner is the de facto complainant in C.C.No.571/1998 with respect to the offences under Sections 406 and 420 read with Section 34 I.P.C.

2. The prosecution case is that the accused on 01/12/1997 at 10 a.m approached PW.1, a lady and got possession of two pairs of gold ear rings of 3.800 gms and a gold chain of four sovereigns on the pretext that the first accused has to go to the house of her daughter to attend a function and assuring that the same shall be returned. Subsequently, the above ornaments were not returned and it was found that the ear rings have been pledged and the gold chain misappropriated.

3. The trial court has found that the sole evidence to connect the accused with the offence is the evidence of PW.1, the de facto complainant. The complaint filed before the court was referred to the police under Section 156(3) Cr.P.C. Although the prosecution case is that both the accused approached PW.1 and borrowed the ornaments, PW.1 has only testified with respect to the first accused,

the mother of the second accused. She has not mentioned anything about the second accused. PW.1 has admitted that there was nobody else when the ornaments were given to the first accused. PW.1 and the accused are neighbours. Gold earnings were seized from the Thirumittacode Ezhumangad Service Co-operative Bank by PW.8 the Investigating Officer and also the card issued by the bank with respect to the gold loan in the name of C.P.Janaki, which is the name of the first accused. As per the card the date is 05/01/1998 and Rs.500/- was paid to the above Janaki. PW.3 the branch manager of the Service Co-operative Bank has also testified as to the gold loan given. But the prosecutor has not got identified the first accused by PW.3. The court below has also noted that the ornaments were also not identified by PW.1. In the cross-examination of PW.1 and PW.2 the husband of PW.1, it was brought out that there was civil suit instituted and criminal complaint filed by PW.2 the husband against the second accused alleging illicit relationship in between the second accused and PW.1. He has also alleged that the ornaments worth Rs.2,00,000/- have been obtained by the second accused from PW.1. Exts.D1 and D2 series are the copy of the complaint and decree of the suit filed by PW.2 the husband of PW.1 against the second accused. It was on account of the above circumstances that the court below found

that the prosecution could not establish beyond reasonable doubt that the accused is guilty of the offences alleged under Sections 406 and 420 I.P.C. In the circumstances and considering the constraints in exercises of revisional jurisdiction against acquittal, I find no interference is called for. The revision petition is dismissed.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl. R.P.No.1092 of 2000-B
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O R D E R

6th November, 2007